



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

June 24, 2019

Via Emailed PDF

Martin P. Sullivan
Sullivan & Barros, LLP
1155 15th Street, NW, Suite 1003
Washington, DC 20005

Re: 3232 13th Street, NW (Square 2843, Lot 79)

Dear Mr. Sullivan:

This letter confirms your discussions with zoning technician Daniel Calhoun regarding your proposal to maintain and further develop the property and improvements located at 3232 13th Street, NW (the "Property"). The Property is a land-locked record lot located in the RF-1 Zone. According to public records and documents attached to this letter, the Property has a land area of 7,063 square feet, and a lot width and street frontage length of 49.0 feet. The Property is improved with a principal building (the "Principal Building") and an accessory building (the "Accessory Building")(collectively, the "Apartment House"). The Principal Building is 29.6 ft. wide at its widest point, leaving open space on the south side of the Property with a minimum width of 19.4 ft. The Apartment House (including both the Principal Building and the Accessory Building), according to the evidence (attached) is used as an apartment house with four (4) dwelling units, including three (3) dwelling units in the Principal Building and one (1) dwelling unit in the Accessory Building.

The only certificate of occupancy on file is Certificate of Occupancy # B47816 dated February 12, 1965 (Exhibit A), which authorized use of the Property for a 6-unit apartment house.¹ In or around 1993, it appears that the Apartment House was reduced from six (6) dwelling units to four (4) dwelling units. No C of O has been found for that (4)-dwelling unit use; however, we have found a copy of a C of O application related to that reduction to four units. That C of O application evidences the fact that a reduction to

¹ While this C of O does not specifically denote the number of units, it does label this an apartment house, and the corresponding C of O application (attached as Exhibit B) clarifies that six (6) units were contemplated. Also, six (6) units were permitted as a matter-of-right pursuant to the Regulations in effect in 1963, and up until June, 2015.

four units was pursued legally and was in fact inspected and approved by zoning.² This application, along with the current evidence attached to this letter, have provided proof that the Apartment House was lawfully approved for apartment house use, with up to six (6) units, and that such use has continued to today as a 4-unit dwelling. You have stated that it appears that the Building was originally constructed as a one-family dwelling. Therefore, any expansion of the Building, in floor area or number of units, would require BZA special exception approval. The evidence of the existing 4-unit use is attached as Exhibit C and includes photographs and utility bills.

Your proposal is to (i) subdivide the Property into two separate record lots, for purposes of this letter – “Lot 1” on the north side of the Property, and “Lot 2” on the south side of the Property; (ii) retain the existing Building, demolish the Accessory Building, and maintain the formerly authorized – and current - four (4)-unit dwelling use on Lot 1 in the Building; and (iii) construct a new flat on Lot 2.

You have asked me to provide certain determinations regarding this proposal, as follows:

Number of Dwelling Units Permitted on the Property.

You are proposing to subdivide the Property into two separate record lots. Lot 1 will encompass the northern portion of the Property and will include the existing Building. The Accessory Building will be demolished. The existing Building will then consist of four (4) dwelling units. The proposed Lot 1 will have a Lot Area of 4,153 square feet, a Street Frontage of thirty feet (30 ft.), and an official Lot Width of 29.6 feet, pursuant to the D.C. Surveyor’s Plat attached hereto as Exhibit D.

Pursuant to the Zoning Regulations regarding nonconforming structures, a 4-unit dwelling in the RF-1 zone which has not been abandoned may be continued as a 4-unit dwelling indefinitely, until such structure is abandoned. With the demolition of the Accessory Building, you are proposing a reduction in the current space used for four (4) dwelling units. A reduction in the land area of the Building’s existing lot is permissible provided that the remaining lot area for Lot 1 is at least 900 square feet for each remaining dwelling unit on Lot 1, or, 3,600 square feet in total. You have proposed reducing the lot area to 4,153 square feet, which allows for the retention of the four-unit dwelling on the Property.

In my opinion, the documentation included herein proves conclusively that the Apartment House has been lawfully used as a 4-unit dwelling in the past and is currently used as a 4-unit dwelling. Therefore, you may continue to use the Property for a 4-unit dwelling, provided that the area of Lot 1 is not reduced below 3,600 square feet. As the attached proposed subdivision plat shows a lot area of 4,153 square feet, the proposed Lot 1 will satisfy this 900-foot rule per unit requirement, and 4-unit dwelling use may continue on the proposed Lot 1.

² That inspection appears to approve a 6-unit use; however, based on the information provided in that application referring to just four (4) units, and based on the current existing situation of four (4) dwelling units, you are seeking confirmation for a continued 4-unit use.

The Four Units May be Located in the Principal Building.

Pursuant to Section C-202.1 of the Zoning Regulations, ordinary repairs, alterations, and modernizations to a nonconforming structure shall be permitted. Pursuant to Section C-202.2, no addition or enlargement shall increase or extend any existing, nonconforming aspect of the structure, nor create any new nonconformity of structure and addition combined. The proposal to move the fourth dwelling unit from the Accessory Building (to be demolished) into the Principal Building, is permissible, since this proposal does not include increasing or extending any existing nonconformity, and it does not create any new nonconformity. It instead would be a reduction in floor area used for the 4-unit dwelling use on the Property. As such, the proposal is permissible, and you may “move” the fourth unit from the Accessory Building to the Principal Building on the newly created Lot 1.

This scenario also complies with the restrictions included in Section U-320.2(m); provided that you are not expanding the four-unit dwelling use, either structurally or by increasing the number of units. If you were to increase the Building, structurally, or by increasing the number of units on Lot 1, BZA special exception relief would be required.

The Property May be Subdivided

You are proposing a record lot subdivision which would result in:

(i) Lot 1: Lot 1 will consist of 4,152.75 square foot of land area, with a street frontage of thirty (30) feet, and a lot width of twenty-nine point six (29.6) feet. This measurement will comply with Section C-303.5, which provides that each new record lot being created for an apartment house shall have a street frontage measured along the street line a distance of not less than thirty feet (30 ft.). The proposed Lot 1 will step back in width at the point where it meets the existing Building, a point which is thirty feet (30 ft.) back from the street line. Therefore, pursuant to the lot width calculation method included in Section C-304, the Lot Width of Lot 1 will be 29.6 feet. This will comply with the minimum lot width requirement of eighteen feet (18 ft.), as well as the street frontage requirement of thirty feet (30 ft.). As noted in the preceding paragraphs, following this proposed subdivision, you may include up to four dwelling units in the existing Building on the new Lot 1, since the land area will continue to 3,600 square feet or greater.

(ii) Lot 2: Lot 2 will consist of 2,910 square feet. The official lot width will be 19.4 feet, this being the lot width at a point which is thirty feet (30 ft.) back from the street line. At the street line, Lot 2 will have a lot width of 19.0 feet. You are proposing to construct a new flat on Lot 2, as noted on Exhibit D, the Surveyor's Plat. The proposed new building (the “New Building”) on Lot 2 may be constructed with a lot occupancy of up to sixty percent (60%), may be built from lot line to lot line without a side yard, but may not extend more than ten feet (10 ft.) past the rear wall of either of the two adjoining buildings, including the Principal Building on Lot 1.

Based on your proposal included on the Surveyor's Plat, and subject in any event to the ten-foot rule of E-205.4. I have determined that the above subdivision scenario is compliant with the Zoning Regulations, including Regulations involving side and rear yards, lot occupancy, and courts (subject to the conditions noted below regarding the court width for the Principal Building).

No Parking Required


The Property is land-locked, so it does not have access to a public alley. The Principal Building was constructed prior to 1958 and as such has no parking requirement. You are not adding any units on Lot 1. Because you are not adding units to Lot 1, no parking is required to be provided on Lot 1 for the existing Principal Building and the 4-unit dwelling thereon. Regarding Lot 2, pursuant to Section C-702.3, any building containing a single principal dwelling unit or flat within the RF zone which does not have access to an open, improved, and public alley with a right of way of ten feet (10 ft.) width minimum is not required to have parking. Therefore, since Lot 2 does not have access to a public alley, and will consist of a flat, no parking is required.

Open Court on Existing Building

The creation of Lot 1, as proposed, will result in the reduction of an existing open court for the existing Building. This open court must continue to meet the minimum requirements for court width, pursuant to Section E-203.1. The open court width requirement for an apartment house is 2.5 inches per 1 ft. of height of court, but not less than 6 ft. The proposed plat in Exhibit D shows a court width of 7 feet 5 inches (7'-5"). Whether or not this width complies depends on the actual height of the court at this location, from the grade at that point to the top of the roof. For instance, if the height at that point is thirty-five feet (35 ft.), the court width requirement will be approximately 7.3 feet, and Lot 1 as proposed will be in compliance with the open court width requirement.

You have stated that you have not yet calculated the actual height of this court. Therefore, this letter is not confirming the compliance of the newly created court, but merely providing this guidance. If the height of the court exceeds thirty-five feet (35 ft.), then the width of the court may need to be increased.

Please feel free to contact me if you have any questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Enclosures

- a) C of O dated February 12, 1965
- b) C of O Application

- c) Pepco Bills
- d) Washington Gas Bills
- e) C of O Application dated May 9, 1993
- f) Plat dated May 29, 2019

This letter is issued in reliance upon, and therefore limited to, the questions asked, and documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a “final writing”, as used in Section Y-302.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator’s review. Therefore, this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provision established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

File: Det Let re 3232 13th Street, NW, to Sullivan on June 24, 2019

Zoning Technician: Daniel Calhoun